

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PHUONG N. TRAN,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-12-1073-M
)	
AMERICAN NATIONAL GENERAL)	
INSURANCE COMPANY d/b/a)	
AMERICAN NATIONAL PROPERTY)	
AND CASUALTY COMPANIES,)	
)	
Defendant.)	

ORDER

On September 27, 2012, defendant filed its Notice of Removal. The Court raises the question of jurisdiction in this matter.

“[B]y whatever route a case arrives in federal court, it is the obligation of both district court and counsel to be alert to jurisdictional requirements.” *Grupo Dataflux v. Atlas Global Grp., L.P.*, 541 U.S. 567, 593 (2004) (citations omitted). To that end, “if the parties fail to raise the question of the existence of jurisdiction, the federal court has the duty to raise and resolve the matter.” *Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (10th Cir. 1995).

In order to timely remove a case,

[t]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

28 U.S.C. § 1446(b)(1).

In the case at bar, defendant was served with the summons on August 27, 2012.¹ On September 27, 2012 – 31 days after the service of summons – defendant filed its notice of removal. Therefore, the Court finds that defendant’s notice of removal is untimely.

Accordingly, the Court REMANDS this case to the District Court of Oklahoma, County, Oklahoma.

IT IS SO ORDERED this 28th day of September, 2012.



VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE

¹In its notice of removal, defendant states: “Process was served on [defendant] by certified mail upon the Oklahoma Insurance Commissioner on August 22, 2012.” Defendant’s Notice of Removal [docket no.1]. A review of the record, however, reveals that the summons was served on August 27, 2012. *See* Summons, attached as Exhibit 2 to defendant’s Notice of Removal.